

AGRICULTURAL LAND PRESERVATION COMMISSION
OF THE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RULE I
OPERATING PROCEDURES FOR
PURCHASE OF FARMLAND DEVELOPMENT RIGHTS

Adopted pursuant to Chapters 42-35 and 42-82 of the
General Laws of Rhode Island

June 1983

Amended May 1988

Amended March 1989

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 PROMENADE STREET

PROVIDENCE, RI 02908

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RULE I
OPERATING PROCEDURES OF THE
AGRICULTURAL LAND PRESERVATION COMMISSION

1.00 AUTHORITY AND PURPOSE

1.01 Statutory Basis

Chapter 42-82-5 of the General Laws. "Duties of the Commission", requires the Commission to... " (3)-prepare and adopt rules for the administration of the purchase of development rights..."

1.02 Purpose

This rule establishes the operating procedures of the Commission for administering the Farmland Preservation Act.

2.00 MEETINGS

2.01 Regular Meetings

Regularly scheduled meetings of the Commission shall be held on the 2nd Thursday of each month. Regularly scheduled meeting may be cancelled by the Chairperson upon two (2) hours notice.

2.02 Special Meetings

The Chairperson may call special meetings at any time upon 48 hours public notice.

2.03 Notice Of Meetings

Notices of meetings and agendas will be posted at the administrative offices of the Department of Environmental Management and the State House Library.

2.04 Open Meetings

All Commission meetings and records shall be consistent with the Open Meetings Law (Chapter 42-46 of the General Laws) and the Access to Public Records Act (Chapter 38-2 of the General Laws).

3.00 ALLOCATION OF FUNDS

3.01 Allocation by Year

The Commission shall, by majority vote of the full Commission, set the maximum amount of money available to be spent for the purchase of development rights each calendar year. This amount may be changed by a two-thirds vote of the full Commission.

4.00 APPLICATION PROCEDURES

4.01 Form

The form that shall qualify a landowner for consideration shall be the form designated Application for the Purchase of Development Rights and approved by the Commission.

4.02 Availability of Application Forms

Application forms shall be made available to individuals and organizations on request. Copies shall also be made available to each conservation district office for distribution to the public and shall be available at the Office of State Planning and the Department of Environmental Management.

4.03 Filing of Applications

Applications shall be filed with the Agricultural Land Preservation Commission, c/o DEM/Planning and Development, 83 Park Street, Providence, RI 02903, or such other address as the Commission designates in the application form instructions. Applications shall be accepted by the Commission any business day during regular working hours and shall be date stamped upon receipt.

4.04 Application Acceptance

The staff shall review each application as it is received. Applications found to be complete will be referred to the Commission for evaluation as described in Section 5 of this Rule. Applications found to be incomplete will be returned to the applicant with a statement as to the deficiencies noted and a notice that the applicant can correct these and resubmit the application within 14 days. Each calendar year that funds are available, the Commission's acceptance of applications shall be advertised at least twice in the Providence Journal and Evening Bulletin.

4.05 Application Review

After accepting the applications(s), the Commission shall review all complete applications and disqualify those that fail to meet the minimum requirements of the Act. The Commission shall act on all applications in a timely manner and all applications shall be

acted on within sixty (60) days. Those whose applications have been disqualified shall receive a letter approved by the Commission advising them of this action.

4.06 Application Acceptance

Within 14 days of the Commission's action on an application, successful applicants will be notified by letter.

5.00 EVALUATION AND SELECTION PROCEDURES

5.01 Basis of Evaluation: Data

The completed application, in addition to other information assembled by the Commission or its staff, shall form the basis of the Commission's decision.

5.02 Technical Scoring Committee

A committee of the Commission shall be established for a two year period for the purpose of scoring each application for technical competency. The committee shall consist of the Chairperson, two Commission members appointed by the Chairperson and representatives from the Department of Environmental Management's Division of Agriculture, from the Department of Administration's Division of Planning and from the Soil Conservation Service. The committee shall meet as needed to score completed applications received by the Commission and shall submit to the Commission, in order of priority its recommendation of applications for further consideration.

5.03 Technical Scoring Committee Review

The committee will review each qualified application according to the Primary and Secondary Criteria adopted by the Commission in Rule II. The instrument of that rating shall be the Rating Sheet approved by the Commission for this purpose.

5.04 Determination of Score

The committee will: 1. Score each application for Primary Criteria; 2. Score each application for Secondary Criteria; 3. Add the Primary Criteria Score to the Secondary Criteria Score; 4. Establish a mean score of all the members for each application and 5. Priority rank all the applications for a recommendation to the Commission.

5.05 Commission Rating

After the Technical Scoring Committee has rated all of the applications and has submitted their priority recommendations, the Commission, by vote, shall set a minimum score such that applications that are given the minimum score by the Technical Scoring Committee shall be eligible for further consideration by the Commission.

5.06 Selection of Applications for Negotiation

In selecting the applications for negotiation, the Commission shall, by vote, consider the score as well as geographic diversity, mix of farm types, and cost of development rights. All applicants selected for negotiation shall be notified by certified mail. All applications not so selected shall be returned to the applicant without prejudice. Such applications may be resubmitted one year from the date of rejection.

6.00 PURCHASE OF DEVELOPMENT RIGHTS

6.01 Negotiating Committee

The Chairperson of the Commission shall appoint one (1) Commissioner to work with the Department of Environmental Management staff negotiator as a committee to negotiate with each applicant selected in accordance with Section 5.06.

6.02 Negotiations

The Negotiation Committee shall meet with the owner(s) of the property covered by each application to which it is assigned, or with the authorized representative of the owner(s) and shall attempt to formulate an agreement to transfer the development rights to the land described in the application to the State of Rhode Island. The Negotiation Committee shall ensure that such agreement accomplishes the purposes of the Act and that it incorporates any provisions or considerations specified by the Commission as part of these negotiations. The Negotiation Committee shall determine that title to the land under consideration is in fact held by the applicant, and shall identify any mortgages, liens, or other encumbrances attached to the land and the amount of taxes due and unpaid, if any.

6.03 Cost of Acquisition of Development Rights

The Negotiation Committee shall attempt to negotiate a mutually agreeable price and/or other consideration to be exchanged for the development rights. This consideration shall be made a part of the purchase and sales agreement. No purchase and sale agreement shall be concluded or accepted by the Commission until the value of the development rights has been determined by appraisal.

6.04 Conclusion of Negotiations

If the Negotiation Committee and the applicant reach agreement, a proposed purchase and sales agreement shall be prepared and submitted to the Commission for approval. If an agreement cannot be concluded, the Negotiation Committee shall so report to the Commission.

6.05 Approval of the Purchase and Sales Agreement by the Commission

The Commission shall review each proposed purchase and sales agreement, and shall approve or disapprove each by majority vote. Those purchase and sales agreements that are approved by the Commission shall be transmitted to the State Properties Committee for approval as required by Chapter 37-6 of the General Laws.

6.06 Completion of Purchase

The Commission shall review each proposed deed to development rights containing a standard covenant and such additions or amendments as are appropriate to the land and to the development rights in question, and shall be approved or disapproved by the Commission by majority vote. Those deeds to development rights that are approved by the Commission shall be transmitted to the State Properties Committee for approval as required by Chapter 37-6 of the General Laws. Upon approval by the State Properties Committee, the deed and covenant shall be executed by the Chairperson of the Commission, or by another member of the Commission designated by the Chairperson, and by the owner or authorized representative. The deed and covenant shall be recorded in the land evidence records of the city or town in which the property is located.

7.00 NONDISCRIMINATION

7.01 Establishment of Policy

All operations and decisions of the Commission are governed by the policies set forth in Executive Order Number 85-11.

7.02 Statement of Policy

The Commission shall not discriminate against or in favor of, any person on grounds of sex, race, color, national origin, physical or mental handicap, or political affiliation.

8.00 SEVERABILITY

If any section, paragraph, phrase, sentence or clause of these rules and regulations is declared invalid or unconstitutional for any reason, the remainder of the rules shall not be affected thereby.

9.00 ADOPTION AND FILING

The foregoing rules and regulations, after due notice and hearing, are hereby adopted and filed with the secretary of State this thirteenth (13) day of February, 1989, to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 42-44.1, 42-17.7, 42-17.3 and 42-35 of the General Laws of Rhode Island 1956, as amended.

Robert L. Bendick, Jr
Director, Department of Environmental Management

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